



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, FEBRUARY 17, 2015**

On this 17th day of February 2015 at 5:33 p.m., the City Commission of the City of Weslaco, Texas convened in a Regular Meeting at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following members present:

Mayor	David Suarez
Mayor Pro-Tem	Olga Noriega
Commissioner	David R. Fox
Commissioner	Greg Kerr
Commissioner	Gerardo “Jerry” Tafolla
Commissioner	Lupe Rivera
Commissioner	Fidel L. Pena, III
Interim City Manager	Mike R. Perez
City Secretary	Elizabeth Walker
City Attorney	Frank Garza

Also present: Juan Salas, IT Department; Sonia Flores, Assistant Finance Director; Veronica Ramirez, Human Resources Director; David Salinas, Public Utilities Director, Trinidad Cantu, Assistant Public Utilities Director; Mardoqueo Hinojosa, City Engineer/Planning Director; Interim Chief Chris Sanchez, Fire Department; Captain Ted Walensky, Police Department; David Arce, Parks and Recreation Director; Olga Garza, Public Facilities Assistant Director; George Garrett, Airport Director; Arnold Becho, Library Director; Martin Mata, Library Assistant Director; Rosa Huerta, Municipal Court Director; Joey Trevino, Executive Director of the Economic Development Corporation, and other staff members and citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

Mayor Suarez called the meeting to order and certified the public notice of the meeting as properly posted Friday, February 13, 2015.

B. Invocation.

Pastor Raja Masilamony from Seventh Day Adventists delivered the invocation.

C. Pledge of Allegiance.

Mayor Suarez recited the Pledge of Allegiance and the Texas flag.

D. Mayoral Proclamations.

Mayor Suarez recognized Teen Dating Violence Awareness and Prevention Month, as well as the Boy Scouts’ Scouting Anniversary Week.

- E. Roll Call.
Elizabeth Walker, City Secretary, called the roll, noting perfect attendance.

II. PUBLIC COMMENTS

Ms. Yadira Guerrero commented in Spanish on the condition of the streets.

Ms. Ruby Torres, Dr. Rodolfo Guerrero, Mr. Bill Adams and Mr. Carlos Guerra spoke in support of Knapp Medical Center.

III. PUBLIC HEARINGS

- A. To solicit input on behalf of TP Weslaco, LLC to approve Conditional Use Permit to obtain a Mixed Beverage Permit and Mixed Beverage Late Hours Permit at 1022 W. Expressway 83, also being Sarina Group Lot 1, Weslaco, Hidalgo County, Texas.
- B. To solicit input on behalf of Ramon Barrera to amend Ordinance 320 and the City of Weslaco Zoning map to rezone 1015 South International Boulevard, also being 1.53 acre Tract of Land out of Farm Tract 1098, West and Adams Tract Subdivision, Weslaco, Hidalgo County, Texas, from R-1 One Family Dwelling District to B-2 Secondary Highway Business District.

At 6:14 p.m. Commissioner Tafolla, seconded by Commissioner Fox, moved to open the public hearings concurrently. The motion carried unanimously; Mayor Suarez was present and voting. No comments were received.

Commissioner Pena, seconded by Commissioner Rivera, moved to close the public hearings concurrently at 6:15 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

IV. CONSENT AGENDA

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

- A. Approval of the Minutes of the Regular Meeting on February 3, 2015. (Staffed by City Secretary's Office.) Attachment.
- B. Approval on Second and Final Reading of the following:
- 1.) Ordinance 2015-04, amending Ordinance 69-9 "An Ordinance Establishing a First Zone and a Second Fire Zone, and Fixing the Boundaries of Each Such Zone," excluding certain zones from First and Second Fire Zones and authorize the Mayor to execute any related documents. (First Reading held on February 3, 2015; Staffed by

Planning and Code Enforcement.) Attachment.

2.) Ordinance 2015-05, creating a Weslaco Historical Commission, adopting its mission and appointing members. (First Reading held on February 3, 2015; Requested by Mayor Pro-Tem Noriega and Commissioner Fox; staffed by Planning and Code Enforcement.) Attachment.

- C. Approval of the renewal of the Routine Airport Maintenance Program Grant through the Texas Department of Transportation Aviation Division for Fiscal Year 2014-2015 for maintenance on a 50/50 cost share and authorize the Mayor to execute any related documents. (Staffed by Airport.) Attachment.
- D. Acceptance of the grant award from the Texas Department of Public Safety, Texas Rangers Division for the Border Security Program fiscal year 15 (LBSP-13) in the amount of \$45,000.00, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. (Staffed by Police.) Attachment.
- E. Authorization of the renewal of annual membership in the Lower Rio Grande Valley Development Corporation (LRGVDC) Membership Dues in the amount of \$6,750.00, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. (Staffed by City Manager's Office.) Attachment.
- F. Authorization of the renewal of annual membership in the Lower Rio Grande Valley Development Corporation (LRGVDC) Regional Interop Communications Preventative Maintenance Contribution for 2015 in the amount of \$446.56, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. (Staffed by Airport.) Attachment.
- G. Acceptance of inventory transfer from Lower Rio Grande Valley Development Corporation (LRGVDC), to include plotters, scanners, projectors, and authorize the Mayor to execute any related documents. (Staffed by Public Utilities.) Attachment.
- H. Approval of a request by IDEA Public Schools to utilize Harlon Block Sports Complex on March 28, 2015 from 7 a.m. – 12 noon for a 5k, and authorize the Mayor to execute any related documents as may be required by the Texas Department of Transportation for proposed street closure affecting state right-of-way. (Staffed by Parks and Recreation.) Attachment.
- I. Approval of a request from the Weslaco Area Chamber of Commerce to host the Heart of America Carnival as part of Texas Onion Fest at Pablo G. Pena City Park, 300 North Airport Drive, on March 23 – March 30, 2015. (Staffed by Parks and Recreation.) Attachment.
- J. Approval to host the Kelly Miller Circus at Harlon Block Sports Complex on 18th Street, on February 24 – 25, to suspend portions of Ordinances §22-24 for the limited use of live animals. (Staffed by Parks and Recreation.) Attachment.

- K. Authorization to solicit bids for the construction of Border Avenue from 18th Street to Mile 5 North Road. (Staffed by Planning and Code Enforcement.) Attachment.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the consent agenda as presented. The motion carried unanimously; Mayor Suarez was present and voting.

For the record, the Ordinances read as follows:

ORDINANCE 2015-04

AN ORDINANCE AMENDING ORDINANCE 69-9 "AN ORDINANCE ESTABLISHING A FIRST FIRE ZONE AND A SECOND FIRE ZONE, AND FIXING THE BOUNDARIES OF EACH SUCH ZONE" AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY OF WESLACO BY OFFICIAL ACTION OF THE WESLACO CITY COMMISSION THAT:

SECTION I

Ordinance 69-9 passed and approved on April 15, 1969 as "Fire Zones Ordinance" and Codified as Article II Fire Limits of the Weslaco Code of Ordinances is hereby amended to the following metes and bounds description is the boundary of the subject area which is proposed to be excluded by this proposed amendment from the First and Second Fire Zones as described in Ordinance No. 69-9:

SECTION II

Beginning at the Southeast corner of the parcel which is at the intersection of the West curb line of Texas Blvd. and the North ROW line of the Missouri Pacific Railroad and continuing in a westerly direction to the intersection of the North ROW line of the Missouri Pacific Railroad and the East curb line of Calle Republica; Thence in a northerly direction to the South curb line of Railroad Street; Thence in an easterly direction to the intersection of Railroad Street and the West curb line of Texas Blvd.; Thence in a southerly direction to the intersection of the North ROW line of the Missouri Pacific Railroad.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 3rd day of February, 2015.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 17th day of February, 2015.

ORDINANCE 2015-05

AN ORDINANCE ESTABLISHING A HISTORIC PRESERVATION COMMISSION; ESTABLISHING A PROCESS AND CRITERIA FOR DESIGNATING HISTORIC DISTRICTS AND LANDMARKS AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY OF WESLACO BY OFFICIAL ACTION OF THE

WESLACO CITY COMMISSION THAT:

SECTION I

Ordinance 2015-05, which will be codified in the City of Weslaco Code of Ordinances as Chapter 149 and Titled "Historic Preservation Commission," establishes a process and criteria for designating historic district and landmarks, and creates the Historic Preservation Commission, which shall after second and final reading read as follows in The City of Weslaco Code of Ordinances:

Chapter 149 City of Weslaco Historic Preservation Commission

Section 149-01 Purpose

The Board of Commissioners of the City of Weslaco hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the public. It is also recognized by the board of commissioners that the buildings and structures of the City of Weslaco represent the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute the City of Weslaco heritage. This article is intended to:

- a) Protect and enhance the landmarks and districts which represent distinctive elements of Weslaco's historic, architectural, and cultural heritage;
- b) Foster civic pride in the accomplishments of the past;
- c) Protect and enhance Weslaco's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- d) Insure the harmonious, orderly, and efficient growth and development of the City of Weslaco;
- e) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such historic buildings and structures within the city; and
- f) Encourage stabilization, restoration and improvements of such buildings.
- g)

Section 149-02 Definitions

As used in this article, the following words shall have the following meanings: Appurtenance

Appurtenance means a feature in or of a parcel of land or a site, or a building structure or object, or a related group of any of these. The term includes, but is not limited to, buildings, structures, objects, sites, landscaping, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings and signs.

Architectural feature means the architectural elements embodying style, design, general arrangements and components of all of the outer surfaces of any improvements, including, but not limited to, the kind, color and texture of the building materials and the style and type of all windows, doors, lights, signs and other fixtures appurtenant to a structure.

Building means any structure designed to be built for the support, enclosure, shelter or protection of persons, animals, chattel or property of any kind. The word "building" includes the word "structure."

Capable of yielding a reasonable return means the ability of an investment property, under reasonable, efficient and prudent management, of earning an annual rate of return greater than or equal to six percent.

Certificate of appropriateness means a permit issued pursuant to section 149-06 evidencing approval of the particular work it specifies.

Commission means the Board of Commissioners of the City of Weslaco.

Comparable building or structure means a newly constructed building or structure located either:

- 1) In or within 300 feet of a historic district or a contributing resource identified in a city historic resource survey; or
- 2) In or within 200 feet of another comparable building or structure, that has been built in keeping with standards and procedures promulgated by the City of Weslaco, in a style congruent with a period of the neighborhood of 50 or more years prior to application.

Conservation means all the processes of looking after a historic resource so as to retain its historical, architectural or cultural significance.

Contributing resource means a historic resource, located within the boundaries of a historic district, that has been determined to add to the characteristics depicted in subsection 149-05(b)(3) on the basis of which the district was designated, including, without limitation, historic associations, architectural qualities, or archaeological values.

Council means the Weslaco Historic Preservation Council.

Demolition alteration means the demolition of a feature or a portion of a historic resource.

Exterior means visible from any street.

Heritage property means a historic resource so designated by the city upon a finding that it meets the criteria of subsection 149-05 (c)(3)b. hereof.

Historic district means a geographic area so designated by the city upon a finding that it meets the criteria of subsection 149-05 (b)(3) hereof.

Historic resource means any site, structure, object or artifact, or any of their features, which the city has determined has local, regional, statewide or national historical, architectural or cultural significance, and the land necessary for access to and use of the same.

In-kind means, with reference to replacement of deteriorated features with new features, such replacement as matches the material, composition, design, color, texture, and other visual qualities of the original feature.

Landmark property means a historic resource so designated by the city upon a finding that it meets the criteria of subsection 149-05(c)(3)a hereof.

Maintain means to perform ordinary repairs and maintenance, as necessary.

Non-contributing resource means a resource located within the boundaries of a historic district that has been determined not to add to the characteristics depicted in subsection 149-05(b)(3) on the basis of which the district was designated, including, without limitation, because it is not 50 years or older, or it has been significantly altered.

Ordinary repairs and maintenance means work done in order:

- 1) To correct any deterioration, decay of, or damage to a historic resource or any part

thereof in order to restore same as nearly as practical to its condition prior to such deterioration, decay or damage, or

- 2) To prevent any deterioration, decay of, or damage to a resource or any part thereof in order to maintain it as nearly as practical in good condition, and
- 3) Which work does not constitute a change in design, material, or outward appearance.

Overlay zone means a set of requirements that is described in the ordinance text, is mapped, and is imposed in addition to those of the underlying zoning district.

P&Z means the City of Weslaco Planning and Zoning Commission.

Preservation means the stabilization of a historic resource, its materials or features in their present condition to prevent future deterioration.

Nominated district and nominated property mean, respectively, a district, property or resource that, after review, is considered by the council to be historically significant and qualified for designation, respectively, as a historic district, a landmark or heritage property, or as a historic resource, and which is nominated by the council as a candidate for such historic designation.

Rehabilitation means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Restoration means the act or process of accurately depicting the form, features and character of a historic resource as it appeared at a particular period of time. Sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make the historic resource functional is appropriate.

Structure means anything constructed, erected or artificially built up; or composed of parts and joined together in a definite manner.

Section 149-03 Weslaco Historic Preservation Council; historic preservation officer.

- a) There is hereby created a board to be known as the Weslaco Historic Preservation Council consisting of seven members appointed by the board of commissioners each having a known and demonstrated interest, competence or knowledge in historic preservation within the City of Weslaco. The council shall include at a minimum one member each that qualifies as:
 - 1) Architect licensed to practice in Texas;
 - 2) Historian;
 - 3) Licensed real estate broker or appraiser;
 - 4) Building contractor; and
 - 5) Owner of historic or landmark property.
- b) Whenever a vacancy shall arise whereby there is a loss of representation in the council of at least one of the aforementioned qualified members, a new member shall be appointed to restore that representation.
 - 1) A quorum shall consist of four members.
 - 2) Members shall serve for a term of two years in staggered terms according to.
 - 3) The chairperson and vice-chairperson of the council shall be elected by and from members of the board.
 - 4) The chairperson and vice chairperson of the council shall be elected annually.

- c) The planning director shall appoint a qualified city staff person who has a known and demonstrated interest, competence or knowledge in historic preservation within the City of Weslaco, to serve as historic preservation officer ("HPO"). The HPO shall administer this article, perform the duties and responsibilities as prescribed under this article, and advise the council on matters submitted to it. The HPO is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national nonprofit preservation organizations.

Section 149-04 Functions of the council.

- a) The council shall have the following powers and it shall be its duty to:
 - 1) Prepare rules and procedures as necessary to carry out the business of the council.
 - 2) Recommend criteria for the designation of historic, architectural, and cultural landmarks and the delineation of historic districts, which may be adopted by the board of commissioners.
 - 3) Conducts surveys, and maintains an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the city.
 - 4) Create committees from among its members and delegate to those committees responsibilities to carry out the purposes of this article.
 - 5) Maintain written minutes which record all actions taken by the council and reasons for taking such actions.
 - 6) Recommend to the commission that the city publicly recognize the owners of landmark or heritage properties or of properties within historic districts by means of certificates, proclamations, plaques or markers.
 - 7) Increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
 - 8) Make recommendations to the city commission concerning the utilization of federal, state, local or private funds and/or tax incentives to promote the preservation or rehabilitation of landmark and heritage properties and historic districts within the city.
 - 9) Act upon applications for certificates of appropriateness that are required under this article or that are voluntarily applied for by property owners.
 - 10) Prepare specific design guidelines for the review of landmark and heritage properties and historic districts.
 - 11) Recommend the acquisition of landmark and heritage properties by the city government where their preservation is essential to the purpose of this article and where private preservation is not feasible.
- b) Meeting. The council shall meet once a month if necessary at a regularly scheduled time. Special meetings may be called upon request of the chairperson or vice chairperson, or upon written request of four members, or upon notice from the chief building official or the HPO that a matter requires the consideration of the council. All meetings shall have advance notice posted in accordance with Texas Open Meetings Act, codified at V.T.C.A., Texas Government Code Chapter. 551, as the same may be amended.

Section 149-05 Designation of historic districts, landmark properties, and heritage properties withdrawal of designation.

- a) Purposes. The intent of historic district designation is to recognize areas of the city of historical and cultural importance because of the presence therein of significant historic, architectural, or cultural resources; to foster civic pride in the accomplishments of the past; to encourage stabilization, restoration, and improvements of such resources and their values; to allow for a design review process, and to serve as a basis for preservation incentive programs. The provisions in this article pertaining to the designation of landmark and heritage properties constitute a part of the comprehensive plan of the City of Weslaco.
- b) Designation of historic districts.
 - 1) Zoning designation. The commission may, from time to time, upon recommendation of council, designate certain areas in the City of Weslaco as historic districts, and define, amend or eliminate the boundaries of same. Such districts shall bear the word "historic" in their zoning designation. Such designation shall be an overlay zone, in addition to any other zoning district designation established in the zoning ordinance.
 - 2) Official zoning map. The commission shall cause the designation to be recorded by the city secretary in the Records of Hidalgo County, the Hidalgo County Appraisal District, and the tax records of the City of Weslaco. The official zoning map for the City of Weslaco shall indicate the designated historic district with the suffix "HD".
 - 3) Criteria. In making the designation of a historic district, the commission shall affirmatively find the area has one or more of the following characteristics:
 - a. Possess significance in history, architecture, archeology, and culture;
 - b. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
 - c. Is associated with the lives of persons significant in our past;
 - d. Embodies the distinctive characteristics of a type, period, or method of construction;
 - e. Represents the work of a renowned master designer, builder or craftsman;
 - f. Represents an established and familiar visual feature of the neighborhood;
 - g. The majority of the resources within the district is 50 years old or older and considered contributing historically as it retains its structural and architectural integrity, and
 - 4) Procedure to establish a historic district. In designating a historic district, the following steps must be followed:
 - a. A petition signed by the owners of a majority of the land within the proposed district requesting its designation as a historic district must be filed with the council as an attachment to an application to consider the designation of a historic district. The application shall be in the form and be filed in the manner required by the council.
 - b. Once the application is submitted and processed, the council shall conduct a public hearing at which the owner, interested parties, and/or technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural or cultural importance of the proposed historic district. The HPO shall make a presentation at the scheduled hearing and render a

recommendation to the council. The council shall ascertain the historic nature of the proposed district and determine whether it meets the designation criteria. The council shall then forward a report and recommendation to the P&Z to accept, modify, or reject the district as proposed. Prior to the hearing written notices shall be sent as provided in Section 211-007(c) of the Texas Local Government Code and official signs shall be posted with the words, "NOTICE OF HISTORIC DISTRICT DESIGNATION," the number and location of which signs shall be determined by the council.

- c. Once the P&Z receives the council's report and recommendation, it shall give notice, conduct a public hearing. The HPO shall make a presentation at the scheduled hearing and render the council's recommendation to the P&Z. The P&Z shall ascertain the historic nature of the proposed district and determine whether it meets the designation criteria. After the hearing the P&Z shall forward the council's and its own report and recommendation to the commission to accept, modify, or reject the proposed district. Prior to the hearing written notices shall be sent and official signs shall be posted in the same manner as for the council's hearings, with the number and location of said signs determined by the P&Z.
 - d. After receiving the council's and P&Z's reports and recommendations the commission shall conduct a public hearing and take action to accept, modify, or reject the proposed district. Prior to the hearing notice shall be given by publication as provided in section 150-20. At the hearing the HPO shall make a presentation and render the council's and the P&Z's recommendations.
 - e. Nominated districts. The council may, without a petition, when brought to its attention or on its own motion, consider, propose and act to recommend designation of a nominated historic district. In such a case the council's approved motion to do so will substitute for the petition referred to at subsection (b) (4)a., above. All relevant procedures outlined in subsection (b) (4), hereinabove, shall be followed. However, no recommendation may be forwarded to the P&Z unless the council's recommendation is supported by a two-thirds majority vote.
- 5) Maintaining districts. In order to qualify for any special funding or tax incentives, designated historic district must maintain the characteristics depicted in subsection 149-05(b)(3) on the basis of which it was designated, and follow all relevant guidelines established by the City of Weslaco including performing ordinary repairs and maintenance as necessary.
- c) Designation of historic properties.
- 1) Zoning designation. The commission may, from time to time, designate certain historic resources in the City of Weslaco as landmark or heritage properties. Such properties shall bear the word "historic" in their zoning designation. Such designation shall be an overlay zone, in addition to any other zoning district designation established in the zoning ordinance.
 - 2) Official zoning map. Upon designation of property as a heritage or landmark property, the commission shall cause the designation to be recorded in the Official Public Records of Real Property of Hidalgo County, the tax records of

the City of Weslaco and the Hidalgo County Appraisal District. The official zoning map for the City of Weslaco shall indicate a designated landmark property with the suffix "LP," and a designated heritage property with the suffix "HP".

- 3) Criteria. A property qualifies for designation as a landmark or heritage property if it is a historic resource, including a building or structure that complies with all the applicable requirements of this article and meets any of the following criteria for the specific designation:
 - a. For landmark property designation, the property is at least 50 years old, has been restored, rehabilitated, or preserved in accordance with the applicable United States Secretary of the Interior's Standards, and any design guidelines adopted by the city, and:
 - i. Embodies the distinctive characteristics of a type, period, or method of historical construction or architecture;
 - ii. Is associated with the lives of persons significant to our past;
 - iii. Is associated with events that have made a significant contribution to the broad patterns of our history ;or
 - iv. Has yielded information important in the prehistory or history of Weslaco, the region, or the nation.
 - b. For heritage property designation, the property is:
 - i. At least 50 years old but does not qualify for or is not designated a landmark property and, in keeping with standards and procedures promulgated by the City of Weslaco, has had all of the facade facing any street it abuts substantially restored, rehabilitated, or preserved; or
 - ii. Is less than 50 years old and has been substantially restored, rehabilitated, or preserved in keeping with standards and procedures promulgated by the City of Weslaco; or
 - iii. Is a comparable building or structure, as that term is defined in this article.
- 4) Procedure to designate historic properties. In designating a landmark or heritage property, the following steps must be followed:
 - a. A property owner shall submit an application to the council in order to be considered for designation as a landmark or heritage property. The application shall be in the form and be filed in the manner required by the council.
 - b. Once the application is submitted and processed, the council shall conduct a public hearing whereas the owner, interested parties, and/or technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural or cultural importance of the proposed property. Written notices shall be sent in a manner similar to that provided in subsection Section 211-007(c) of the Texas Local Government Code, and official signs shall be posted with the words, "NOTICE OF HISTORIC PROPERTY DESIGNATION," with the number and location of said signs determined by the council. At the hearing the HPO shall make a presentation and make a recommendation to the council. Following the hearing and deliberation, the council shall forward a

recommendation to the P&Z.

- c. Upon submission by the council, the P&Z shall give notice and conduct its hearing on the proposed designation. Written notices shall be sent and official signs shall be posted in the same manner as for the council's hearings, with the number and location of said signs determined by the P&Z. At the hearing the HPO shall make present the council's recommendation. Following the hearing and deliberation, the P&Z shall forward a recommendation to the commission.
 - d. Upon receipt of a recommendation from the P&Z, the commission shall give notice, hold a public hearing and make its determination. Notice of such hearing shall be given by publication as provided in section 150-20(c). At the hearing the HPO shall make a presentation and render the council's and the P&Z's recommendations.
 - e. Nominated historic properties. The council may, without a petition, when brought to its attention or on its own motion, consider, propose and act to recommend designation of nominated historic properties. In such a case the council's approved motion to do so will substitute for the property owner's application referred to at subsection (c)(4)a, above. All relevant procedures outlined in subsection (c)(4), hereinabove, shall be followed. However, no recommendation may be forwarded to the P&Z unless the council's recommendation is supported by a two-thirds majority vote.
- 5) Maintaining historic properties. In order to qualify for any special funding or tax incentives, landmark and heritage properties, and contributing resources in historic districts must maintain the characteristics on the basis of which they were designated, must be properly maintained, and follow all relevant guidelines established by the City of Weslaco.
- d) Withdrawal of designation. Whenever it shall come to the council's attention that a designated historic district has failed to maintain the characteristics depicted in subsection 149-05(b)(3) on the basis of which it was designated, or that a designated landmark of heritage property has failed to maintain the criteria specified in subsection 149-05(c)(3), or that either such a district or property has failed to follow any relevant guidelines established by the City of Weslaco, the council may entertain a motion to recommend withdrawal of such designation. Such withdrawal of designation shall render the affected properties ineligible for any tax relief,
- 1) Procedure to withdraw designation. The affected landmark or heritage property owner and all property owners of the affected historic district shall be given written notice of the time and place of the hearing by certified mail sent at least ten business days before the meeting to the owner's address of record.
 - 2) Written notices shall be sent in a manner similar to that provided in subsection Section 211-007(c) of the Texas Local Government Code, and official signs shall be posted with the words, "NOTICE OF HEARING TO WITHDRAW HISTORIC DESIGNATION," with the number and location of said signs determined by the council.
 - 3) The HPO shall make a presentation at the scheduled hearing and render a recommendation to the council. The owner or owner's agent or representative shall attend the council's scheduled hearing. In the event the owner or owner's

agent or representative fails to be present at the hearing the council shall table the item. At any subsequent meeting and regardless of the absence of the owner or owner's agent or representative, the council may take action.

- 4) The council shall forward a recommendation to the P&Z for withdrawal of designation if it finds that:
 - a. A designated historic district has failed to maintain the characteristics depicted in subsection 149-05(b)(3) on the basis of which it was designated; or
 - b. A designated landmark or heritage property has failed to maintain the criteria specified in subsection 149-05(c)(3); or
 - c. Either such a district or property has failed to follow any relevant guidelines established by the City of Weslaco.
- 5) Once P&Z receives the council's recommendation it shall cause written notices to be sent in a manner similar to that provided in subsection Section 211-007(c) of the Texas Local Government Code, and official signs shall be posted with the words, "NOTICE OF HEARING TO WITHDRAW HISTORIC DESIGNATION," with the number and location of said signs determined by the council. P&Z shall conduct a public hearing during which the HPO shall make a presentation and render the council's recommendation. Following the hearing the P&Z shall deliberate and forward a recommendation to the commission.
- 6) After the commission receives the P&Z's recommendation it shall provide notice by publication as provided in section 150-20, conduct a public hearing during which the HPO shall make a presentation and render the council's and P&Z's recommendations, and take action on the recommendation.

Section 149-06 Certificate of appropriateness required.

It shall be unlawful for any person to:

- a) Carry out or allow any construction, reconstruction, alteration, restoration, rehabilitation, installation, or relocation of any portion of or any exterior feature of any contributing property in a designated historic district, or of any landmark or heritage property, or of any state or federally designated historic resource, or
- b) Construct or install any new structure within a designated historic district or in a designated historic landmark or heritage property, or in any state or federally designated historic resource,

until after an application for a certificate of appropriateness of such work has been approved by the council. Additionally, a building or demolition permit may not be granted for any contributing property within a historic district or in a designated historic landmark or heritage property, unless the council issues a certificate of appropriateness. Neither shall anyone carry out or allow any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from any street, which affects the appearance and cohesiveness of any contributing property in a designated historic district, or of any landmark or heritage property, or of any state or federally designated historic resource, unless the council issues a certificate of appropriateness.

- 1) A certificate of appropriateness shall be required prior to beginning any work in any historic resource, including work claimed to be ordinary repair or maintenance. No building permit shall be issued for property that requires a certificate of appropriateness unless and until the HPO certifies to the building official that such a certificate of

appropriateness has been granted, advising as to any conditions attached to such a certificate.

- 2) A review of the plans or proposed work shall be undertaken by the HPO for submission of a recommendation to the council, or by the council directly, after the property owner files a completed application.
- 3) Decisions of the council and by the HPO shall be in writing and shall state the findings of the council.
- 4) A certificate of appropriateness shall be valid for 12 months and shall expire thereafter.
- 5) An applicant may resubmit an application for a certificate of appropriateness after 12 months from the date of a denial.
- 6) Certificates of appropriateness may be issued for distinct and separate phases of an ongoing project.

Section 149-07 Certificate of appropriateness; application and procedure.

- a) Application. The applicant shall submit to the HPO an application in writing for a certificate of appropriateness which includes data and information as required by the HPO, including but not limited to the following:
 - 1) Name of applicant and property owner.
 - 2) Mailing address of applicant and permanent address of property owner.
 - 3) Legal description and location of property to be altered or repaired.
 - 4) A detailed description of the nature of the proposed external repair, demolition alterations or additions to be performed.
 - 5) A description of the structure and/or site and a narrative as to how the proposed change will be in character with its architectural and historical aspect on the basis of which it was designated and, if in a historic district, as to how the proposed change will impact upon the district.
 - 6) Any circumstances or conditions concerning the property which may affect compliance with this article.
 - 7) The intended and desired starting and completion date of the repair, demolition alterations or additions to be made.
 - 8) Any drawings or photographs which would explain the proposed repair, demolition alterations or additions.
 - 9) Samples of the colors which will be used on the structure, and of the materials to be used or applied on, or that may affect the exterior.
 - 10) Building, plumbing, electrical, mechanical and/or other permit applications.
- b) Fees. A nonrefundable administrative fee of \$100.00 will be assessed to the applicant reflecting the cost to the city for processing the application. The application will not be deemed complete, nor will it be processed until such fee is paid in full. Separate permit fees shall apply for any construction or demolition. If the application is approved, all applicable building permits shall be obtained and all required fees paid prior to commencement of any work.
- c) Ordinary repair, demolition alterations or additions. If the HPO, guided by the adopted design guidelines, and where applicable, criteria established by the Secretary of the Interior, determines that the application involves ordinary repair or maintenance, change, restoration, color or removal of any exterior architectural feature of a historic resource which does not involve significant change in the architectural or historic value, style, general design or appearance, such officer may tentatively approve the application, on condition that the applicant shall use only the gentlest means possible, and shall

forward a copy of the approved application to the chairperson of the council or to the vice chairperson of the council, if the chairperson is not available. The chairperson or vice chairperson of the council shall, within five business days after receipt of the tentative approval, either approve the HPO's decision or call a meeting of the council to consider the application, which meeting shall be held no later than ten business days after receipt of the tentative approval. If the council officer does not take any action within five business days, or if a meeting is called and no action is taken to overturn the tentative approval, such tentative approval shall be deemed an approval by the council. The HPO shall report all applications approved under this subsection to the council at its next meeting following approval.

- d) Significant repair, demolition alterations or additions. If the HPO determines that the application involves a repair, demolition alteration, addition, change, restoration, or removal of an external architectural feature of a historic resource which involves a significant change in the architectural or historic value, style, general design, or appearance or for any other reason does not desire to act under the subsection above and is within a historic district or is a designated landmark or heritage property, he/she shall refer the application to the council and schedule the matter for the next available meeting of the council to consider a certificate of appropriateness.
- e) Procedure. For all applications other than those approved by the HPO, the council shall hold a public hearing to consider the application within 60 calendar days after the receipt of a completed application.
 - 1) The applicant shall be given written notice of the time and place of the meeting by regular mail sent at least five business days before the meeting to the address on the application.
 - 2) Written notices shall be sent in a manner similar to that provided in subsection Section 211-007(c) of the Texas Local Government Code, and official signs shall be posted with the words, "NOTICE OF APPLICATION FOR CERTIFICATE OF APPROPRIATENESS," with the number and location of said signs determined by the council.
 - 3) The HPO shall make a presentation at the scheduled hearing and render a recommendation to the council. The applicant or his/her agent, or representative, shall attend the council's scheduled hearing to consider the application, otherwise the council shall not take action, and the application will be deemed to be incomplete. Applicants or his/her agent's or representative's failure to attend a second scheduled hearing shall be treated for all purposes as a withdrawal of the application.
 - 4) The council shall make its determination and forward notice of the same to the HPO within 60 calendar days after receipt of a completed application unless the council schedules additional hearings, after the first is timely held, in which case the determination and notification shall be extended.
- f) The council may approve an application and condition such approval upon applicant's compliance with such revisions, stipulations or requirements as the council may find appropriate.
- g) No building permit applications shall be accepted nor shall any such permit be issued, and no work shall be performed until after approval of a certificate of appropriateness, and not until five business days have elapsed from its transmission to the building official by the HPO, with any advice as to conditions which may have been attached to such a certificate.

Section 149-08 Criteria for review of certificate of appropriateness.

In determining the recommendation and action on an application for a certificate of appropriateness, the HPO and the council shall review and decide the appropriateness of the proposed repair, demolition alterations or additions, and its compliance with any applicable City of Weslaco Design Guidelines for designated local landmark and heritage properties, and the Secretary of the Interior's Standards for Treatment of Historic Properties and Guidelines for Preservation, Rehabilitation and Reconstruction.

Section 149-09 Economic hardship waiver procedure; appeals.

- a) Within ten calendar days of receipt of written notification from the council of the denial of a certificate of appropriateness to demolish a resource or any part of it, an aggrieved applicant may file an economic hardship waiver application with the HPO. Within 60 calendar days of applicant's receipt of the denial notice, a waiver applicant must have a complete application on file, including all required documentation and exhibits, including, without limitation:
 - 1) Appraisal of property by a licensed real estate appraiser;
 - 2) Estimated costs for appropriate rehabilitation prepared by a licensed architect or engineer with experience in historic preservation;
 - 3) Documentation of consideration of alternative uses for the property, and
 - 4) Documentation of public advertisement to solicit a buyer willing to appropriately rehabilitate their property.
- b) No building permit or demolition permit shall be issued unless the council makes a finding that hardship exists and approves a waiver.
- c) Applicants for economic hardship waivers must prove with adequate and sufficient documentary and other evidence, that:
 - 1) The owner cannot make reasonable beneficial use of or, for income-producing properties, the property is not capable of yielding a reasonable return, regardless of whether that return represents the most profitable return possible;
 - 2) Reasonable efforts to find a party interested in acquiring the property and preserving it have failed; and
 - 3) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would render it capable of yielding a reasonable return.
- d) The applicant shall consult in good faith with the council, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- e) The council shall hold a public hearing on the hardship waiver application no later than the second regular council meeting from the date the completed application is received by the HPO. The applicant shall be given written notice of the time and place of the meeting by regular mail sent at least five business days before the meeting to the address on the application. Written notices shall be sent in a manner similar to that provided in subsection Section 211-007(c) of the Texas Local Government Code, and official signs shall be posted with the words, "NOTICE OF HARDSHIP APPLICATION FOR WAIVER OF CERTIFICATE OF APPROPRIATENESS," with the number and location of said signs determined by the council. Following the hearing the council shall decide whether to grant or deny the hardship application. In the event the council does not act within 120 calendar days of the receipt of the application, the hardship application shall be deemed approved and a certificate of appropriateness granted.
- f) A written notice of the council's decision, stating the reasons for granting or denying the

hardship application shall be sent to the applicant by certified mail within five business days after it is rendered.

- g) An applicant dissatisfied with any action of the council relating to the issuance or denial of a certificate of appropriateness or a waiver of same that is aggrieved by any such decision of the council may present to the board of commissioners a petition, duly verified, setting forth that such decision is unjust, in whole or in part, and specifying the grounds of injustice. Such petition shall be presented to the board of commissioners within five business days after the final decision of the council, and not thereafter. The commission shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the zoning ordinance of the city for zoning amendments.

Section 149-10 Qualification and eligibility.

Properties that are designated as "landmark property" or "heritage property" or that are located within a designated "historic district" hereby qualified as historically significant sites in need of tax relief to encourage their preservation, pursuant to § 11.24 of the Texas Tax Code. Except where no historic or replica building or structure exists on the property, designated properties are eligible for tax relief under this section, provided, that:

- 1) An historic property may not simultaneously benefit from more than one tax exemption under this division. Tax exemptions for terms certain that are granted under this division are non-renewable. No tax exemption may be granted for any period of time that precedes the filing of an application for historic designation, if voluntary, or historic designation by the board of commissioners, if involuntary.
- 2) A property shall be disqualified and ineligible for tax relief pursuant to sections 149-13 and 149-14 (3)
- 3) No property shall be eligible for tax relief hereunder if granting the same will cause the potential annual revenue foregone by the city as a consequence of the tax relief granted under this article to exceed one-half of one percent of the city's ad valorem tax revenues for the year immediately preceding the year in which the application is being considered.
- 4) It shall be presumed that the lot in which the historic structure is located is "land necessary for access to and use of the structure" (§ 11.24 of the Texas Tax Code), except that if the lot is larger than one acre the historic preservation council may submit its recommendation to the board of commissioners which, after consideration of the same shall specifically determine what, if any additional portion of the lot is "land necessary for access to and use of the structure."
- 5) In the event the board of commissioners repeals this division all properties designated as "landmark property" or "heritage property," and all properties located within a designated "historic district" shall no longer qualify nor be ineligible for tax relief pursuant to section 149-11

Section 149-11 Tax exemption.

- a) The following properties qualify for tax exemptions, which shall expire at the end of the exemption period granted, unless otherwise provided in this division:
 - 1) *Landmark property.* The owner of a landmark property so designated by the City of Weslaco may apply for an ad valorem tax exemption in perpetuity equal to 50 percent of the assessed value of the qualified building and/or structure and land.
 - 2) *Heritage property.* The owner of a heritage property so designated by the City of

McAllen may apply for an ad valorem tax exemption for ten years equal to 100 percent of any increase in the assessed value of the qualified building and/or structure and land at the time the designation application was filed, if voluntary, or at the time the property was designated, if involuntary.

- 3) *Properties in an historic district.* Except for properties designated as either landmark or heritage, the owner of a property in an historic district so designated by the City of McAllen may apply for an ad valorem tax exemption for five years equal to 100 percent of any increase in the assessed value of the qualified building and/or structure and land at the time the designation application was filed, if voluntary, or at the time the historic district designation was granted, if involuntary. Any property located in an historic district that is individually designated as landmark or heritage property may apply for any tax exemptions available on the basis of such designation. Whenever an individual landmark or heritage designation is granted any historic district exemption applicable to the property shall immediately terminate upon it being granted another exemption based on such individual designation. Such property shall then be entitled to the full benefit and period of tax exemption it has individually qualified for.
 - 4) *Federal or state designation.* The owner of any property designated as landmark property by the board of commissioners that has been granted federal or state historic designation or that is granted such designation during any period of exemption granted under this division, may apply for an ad valorem tax exemption equal to 100 percent of the assessed value of the qualified building and/or structure and land.
- b) At the expiration of a tax exemption period granted under subsection (a)(2) hereof, the assessed value for taxation of such property shall gradually increase to full appraised value on an annual basis, and shall be the sum of the prior year's assessed value plus 20 percent of the difference between the then-current appraised value and the prior year's assessed value, until the property's appraised value and its assessed value for taxation are the same.
 - c) This section shall not apply to properties that are disqualified and ineligible pursuant to the provisions of this division.

Section 149-12 Application for exemption.

- a) The tax relief provided for by this division shall not be granted unless the person claiming such tax relief shall file an application as provided in V.T.C.A., Tax Code § 11.43 and other applicable provisions of Chapter 11 of the Tax Code.
- b) Any property owner claiming tax relief provided under this division shall be required to annually request and obtain from the director of planning a certification of qualification, a copy of which must be attached to the application for historic or archeological site property tax exemption required to be filed as provided in V.T.C.A., Tax Code § 11.43 in the form prescribed by the Texas Comptroller of Public Accounts.

Section 149-13 Determinative date for exemption.

January 1 of each tax year shall be the determinative date for eligibility for exemption under this division and qualification therefor shall be determined each year as of that date. Determination of eligibility for such exemption shall be for only the year in question with each subsequent year requiring application and determination of eligibility as provided in this division. There shall be no proration of the exemption provided for in this division for any taxable year either in the event of qualification or disqualification of either any applicable person or property for such exemption after January 1 of the applicable year.

Section 149-13 Disqualification and ineligibility; penalty.

- a) Any withdrawal of a property's official city, state or federal historic designation shall subject the property to disqualification as an historically significant site in need of tax relief to encourage preservation, pursuant to the provisions of section 149-14 hereof. In the event of such disqualification the property shall become ineligible for any tax relief granted hereunder. Such ineligibility shall be effective as of the year in which the designation was withdrawn.
- b) Except when the withdrawal of historic designation directly resulted from an Act of God a penalty shall be imposed against such property equal to the difference, if any, between the taxes imposed on the property for each of the five years preceding the year in which such historic designation is withdrawn, and the taxes that would have been imposed had it not benefited from the exemption, plus interest at an annual rate equivalent to the rate established by § 11.181 of the Texas Tax Code, calculated from the dates on which the taxes would have become due.

Section 149-14 Declaration of disqualification; appeal.

- a) Whenever there is good cause to believe that, pursuant to section 149-13, a property for which tax relief is being claimed under this division has ceased to qualify for designation as an historically significant site in need of tax relief to encourage preservation, the historic preservation council shall conduct a fact-finding investigation to determine whether the property should be declared disqualified.
- b) Within ten calendar days of the council's decision to conduct an investigation, the planning director shall notify the property owner in writing of the investigation. The notice shall state that the owner has the opportunity to submit, within ten calendar days of the date of said notice, any relevant factual information for consideration by the council.
- c) After concluding its investigation the council shall deliberate and decide whether or not the subject property should be declared disqualified. The planning director shall notify the property owner in writing of the council's decision within ten calendar days of the same. In the event the decision is to declare the property disqualified, the notice shall also advise that the council's decision may be appealed to the board of commissioners as provided for in this section.
- d) Whenever the council finds that a property should be disqualified the planning director shall so advise the city tax office, indicating as well that the decision is subject to appeal by the property owner. The provisions of section 149-13 shall then be applied if the council's decision is not appealed, or if it is appealed and upheld by the board of commissioners.
- e) The affected property owner may present to the board of commissioners a petition setting forth that the council's decision to disqualify the property under section 149-13 is unjust, in whole or in part, and specifying the grounds of injustice. Such petition shall be presented to the board of commissioners within ten days after the final decision of the council, and not thereafter, for notification and calling of a public hearing to hear and act on the appeal.

Section 149-15 Demolition by neglect or without a certificate of appropriateness; penalties.

- a) No owner or person with an interest in real property designated as a landmark or heritage property or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature

which would, in the judgment of the council, produce a detrimental effect upon the historic character of the district or property. Such property shall be subject to the withdrawal of its designation pursuant to subsection 149-05 (d), penalties and disqualification pursuant to sections 149-13 and 149-14 of this Code, and ineligibility for any tax relief granted under this Code.

Examples of such deterioration include:

- 1) Deterioration of exterior walls or other vertical supports.
 - 2) Deterioration of roofs or other horizontal members.
 - 3) Deterioration of exterior chimneys.
 - 4) Deterioration or crumbling of exterior stucco or mortar.
 - 5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.
 - 6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.
- b) A person found guilty of demolition of a designated property by neglect or without a required certificate of appropriateness shall be fined at least \$500.00 but not more than \$5,000.00 per violation.

Section 149-16 Penalties.

- a) The board may revoke classification designators for failure by the property owner(s) within the historic district or of a designated landmark or heritage property to maintain the structure at the prescribed levels.
- b) Any person who shall violate, participate or acquiesce in the violation of any provision of this [article] or who shall fail to comply therewith or with any of the requirements thereof, or who shall erect or alter any historic resource in violation of any detailed statement or plan required to be submitted and approved thereunder shall for each and every violation or noncompliance be deemed guilty of a misdemeanor and shall, upon conviction, be punished as prescribed in section 1-5 of this Code.
- c) The city attorney's office is hereby authorized to file an appropriate action in a court of competent jurisdiction to enforce the provisions hereof by cause in equity or by any other remedy available by law.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 3rd day of February, 2015.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 17th day of February, 2015.

CITY OF WESLACO
/s/ David Suarez, **MAYOR**

ATTEST:
/s/ Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:
/s/ Frank Garza, **CITY ATTORNEY**

V. APPOINTMENTS

- A. Discussion and consideration to nominate a member of the Weslaco community who has made significant civic contributions and achievements to the Rio Grande Valley Walk of Fame as part of BorderFest 2015 and authorize the Weslaco City

Commission to sign the nomination form. Possible action. (Requested by City Manager's Office.) Attachment.

Mayor Pro-Tem Noriega, seconded by Commissioner Pena, moved to nominate Blanca Munoz to the Rio Grande Valley Walk of Fame as part of BorderFest 2015. The motion carried unanimously; Mayor Suarez was present and voting.

- B. Discussion and consideration to accept the resignation of Dr. Roger Heredia and approve Resolution 2015-17 appointing one member to an unexpired term on the Weslaco Health Facilities Development Corporation and authorize the Mayor to execute any related documents. Possible action. (Staffed by Finance.) Attachment.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to accept the resignation of Dr. Roger Heredia and approve Resolution 2015-17 appointing James Moore to the Weslaco Health Facilities Development Corporation.

In response to Commissioner Kerr, the City Attorney verified it would not be considered a conflict of interest for him to participate in the vote. The motion failed with the Mayor, Mayor Pro-Tem, Commissioners Kerr and Pena opposed (3-4).

Commissioner Kerr, seconded by Commissioner Pena, moved to accept the resignation of Dr. Roger Heredia and approve Resolution 2015-17 appointing Michael De La Rosa to an unexpired term on the Weslaco Health Facilities Development Corporation. The motion carried with Commissioners Tafolla and Fox opposed (5-2); Mayor Suarez was present and voting.

For the record, the Resolution reads as follows:

RESOLUTION NO. 2015-17

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE WESLACO HEALTH FACILITIES DEVELOPMENT CORPORATION.

WHEREAS, in accordance with the Health Facilities Development Act, Article 1528j, Vernon's Texas Civil Statutes (the "Act") the City Commission (The Governing Body) hereby finds and determines that a health facilities development corporation be authorized and created, with such health facilities development corporation to be known as the "Weslaco Health Facilities Development Corporation"; and

WHEREAS, the purpose of this board is to promote new, expanded or improved health facilities in order to assist the maintenance of the public health and the public welfare; and

WHEREAS, each member shall be appointed by the City Commission of the City of Weslaco; and the members of this board will hold office for a term of no more than six years; and

WHEREAS, the Weslaco Health Facilities Development Corporation members shall serve without compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF

WESLACO, TEXAS THAT Michael de la Rosa is appointed to serve an unexpired term on the Weslaco Health Facilities Development Corporation for a term as assigned.

PASSED AND APPROVED on this the 17th day of February, 2015.

CITY OF WESLACO
/s/ David Suarez, **MAYOR**

ATTEST:
/s/ Elizabeth M. Walker, **CITY SECRETARY**

APPROVED AS TO FORM:
/s/ Frank Garza, **CITY ATTORNEY**

VI. NEW BUSINESS

- A. Discussion and consideration after public hearing on behalf of TP Weslaco, LLC to approve Conditional Use Permit to obtain a Mixed Beverage Permit and Mixed Beverage Late Hours Permit at 1022 W. Expressway 83, also being Sarina Group Lot 1, Weslaco, Hidalgo County, Texas. Possible action. (Staffed by Planning and Code Enforcement.) Attachment.

Mr. Mardoqueo Hinojosa stated the legal notice for this Conditional Use Permit appeared in the newspaper on January 19; the Planning and Zoning Commission recommends approval. This permit would allow the Taco Palenque restaurant to serve mixed beverages late hours.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

- B. Discussion and consideration after public hearing on behalf of Ramon Barrera to approve Ordinance 2015-06 amending Ordinance 320 and the City of Weslaco Zoning map to rezone 1015 South International Boulevard, also being 1.53 acre Tract of Land out of Farm Tract 1098, West and Adams Tract Subdivision, Weslaco, Hidalgo County, Texas, from R-1 One Family Dwelling District to B-2 Secondary Highway Business District. First Reading of Ordinance 2015-06. Possible action. (Staffed by Planning and Code Enforcement.) Attachment.

Mr. Mardoqueo Hinojosa stated the legal notice for this appeared in the newspaper on January 19 and five property owners were notified; the Planning and Zoning Commission and staff recommend approval. This property was annexed last year.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

- C. Discussion and consideration on behalf of Ramon Barrera to approve the Final Plat for Ranch House Subdivision, being 6.48 acres of Farm Tract 1098, West and Adams

Tract Subdivision, Weslaco, Hidalgo County, Texas, located one-quarter of a mile South of Business 83, on the East side of FM 1015. Possible action. (Staffed by Planning and Code Enforcement.) Attachment.

Mr. Mardoqueo Hinojosa stated this is a two-lot subdivision that is serviced by the City's eight inch waterline with proposed variance for septic use; the Planning and Zoning Commission and staff recommends approval.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

- D. Discussion and consideration to approve Ordinance 2015-07 amending Article III, Section 27-57 Uniformity; Official Devices of the Traffic Ordinance of the City of Weslaco to install a four way stop sign at the intersection of Calle De La Republica and Llano Grande Street. First Reading of Ordinance 2015-07. Possible action. (Staffed by Planning and Code Enforcement.) Attachment.

Mr. Hinojosa stated staff recommends approval as there have been three vehicular accidents at the intersection over a two year period; Commissioner Tafolla requested research on previous Commission authorization for a traffic control device at Huisache. Commissioner Pena clarified that there is now a device every three blocks within that neighborhood.

Commissioner Rivera, seconded by Commissioner Kerr, moved to approve Ordinance 2015-07 amending Article III, Section 27-57 Uniformity; Official Devices of the Traffic Ordinance of the City of Weslaco to install a four way stop sign at the intersection of Calle De La Republica and Llano Grande Street. The motion carried unanimously; Mayor Suarez was present and voting.

- E. Discussion and consideration to approve Ordinance 2015-08, the "Peddlers and Solicitors Ordinance," in order to amend ordinance number 96-14, codified as Part II Chapter 102 of the Weslaco Code of Ordinances, adopting new regulations, repealing prior ordinances and providing for severability. First Reading of Ordinance 2015-08. Possible action. (Staffed by Planning and Code Enforcement.) Attachment.

The City Manager and Mr. Hinojosa summarized the proposed changes, which regulate fundraisers at intersections, food trucks, and garage sales. In response to Commissioner Tafolla, Mr. Hinojosa stated the Police as well as Code Enforcement will be responsible for enforcement of the ordinance. In response to Commissioner Fox, Mr. Hinojosa stated he will clarify the effect on mobile car wash vendors.

Commissioner Fox, seconded by Commissioner Tafolla, moved to approve Ordinance 2015-08, the "Peddlers and Solicitors Ordinance," in order to amend ordinance number 96-14, codified as Part II Chapter 102 of the Weslaco Code of Ordinances, adopting new regulations, repealing prior ordinances and providing for

severability. The motion carried unanimously; Mayor Suarez was present and voting.

- F. Discussion and consideration to approve the submission of the final proposed annual work plan for the City of Weslaco under the Hidalgo County Urban County Program, approve Resolution 2015-18 for year 28 (2015) to accept the allocation of approximately \$302,525.00 and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.) Attachment.

Mr. David Salinas stated this amends the 2014 plan as submitted to identify other eligible tracts to address recent water breaks. The City Manager stated the problem is two-fold: old cast iron pipes that haven't been looped. He stated it would take several years to solve this problem.

Commissioner Tafolla, seconded by Mayor Pro-Tem Noriega, moved to approve the submission of the final proposed annual work plan for the City of Weslaco under the Hidalgo County Urban County Program, approve Resolution 2015-18 for year 28 (2015) to accept the allocation of approximately \$302,525.00 and authorized the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

- G. Discussion and consideration to award the Construction-Manager-At-Risk Contractor to the best qualified, most advantageous bidder for the construction phase of the Weslaco Boys and Girls Club Recreation Center, funded in part by the Texas Parks and Wildlife as Project Number 51-000065 as shown on the architectural drawings design completed by Alcocer Garcia Associates Architectural Services, authorize City Manager to negotiate the Construction-Manager-At Risk Contract and authorize Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.) Attachment.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented.

The City Manager reported that staff has been negotiating with Tri-Gen as the third-ranked bidder, but the Commission had not authorized yet to proceed with that firm; additionally, there is a shortfall of \$375,000.00 on the project. The City Manager recommended rejecting all bids and rebidding; he stated he believes even rebid, the project can maintain the timeline of groundbreaking in May and completion in December of this year. Commissioner Tafolla withdrew his motion.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to reject all Construction-Manager-At Risk bids and rebid through the traditional bid process and authorized a budget amendment in the amount of \$375,000.00. The motion carried unanimously; Mayor Suarez was present and voting.

- H. Discussion and consideration to approve a Special Services Agreement on Hotel/Motel Room Occupancy Tax Proceeds between the City of Weslaco and the

Economic Development Corporation of Weslaco. Possible action. (Requested by Economic Development Corporation of Weslaco.) Attachment.

Commissioner Tafolla, seconded by Commissioner Fox, moved to approve the item as presented. Mr. Joey Trevino requested more time for the Economic Development Corporation attorney to review the agreement. Commissioner Tafolla withdrew the motion.

Commissioner Pena, seconded by Commissioner Kerr, moved to table this item until the next regular meeting. The motion carried unanimously; Mayor Suarez was present and voting.

- I. Discussion and consideration to approve a Special Services Agreement on Hotel/Motel Room Occupancy Tax Proceeds between the City of Weslaco and the Weslaco Area Chamber of Commerce. Possible action. (Requested by Weslaco Chamber of Commerce.) Attachment.

In response to Commissioner Tafolla, Ms. Martha Noell stated the economic impact would be measured by the hotel occupancy tax proceeds. The Mayor requested the creation of a Hotel Occupancy Tax advisory committee. The Interim City Manager recommended approval of this item.

Mayor Pro-Tem Noriega, seconded by Commissioner Kerr, moved to approve a Special Services Agreement on Hotel/Motel Room Occupancy Tax Proceeds between the City of Weslaco and the Weslaco Area Chamber of Commerce. The motion carried unanimously; Mayor Suarez was present and voting.

- J. Discussion or consideration to award the best qualified, most advantageous respondent to the Request For Qualifications for Fines and Fees Collection Services of delinquent municipal accounts, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Municipal Court.) Attachment.

Commissioner Pena, seconded by Mayor Pro-Tem Noriega, moved to discuss this item. Mr. Gus Martinez, on behalf of Linebarger, and Ms. Benita Valadez, on behalf of AFB, each respondent to the Request for Qualifications, addressed the Commission. In response to inquiries from the Commission, the City Attorney clarified that there is a 30% statutory fee paid by the violator on or after the 61st day the fine is past due; the court collects the fine in whole directly and no attorney is required on staff of the professional collection agency.

Additionally, in response to Commissioner Tafolla, Ms. Valadez declined to identify the other municipalities with whom she has a similar contract and explained that when she managed this service for Weslaco for a period of 37-months, her bank accidentally withdrew \$240,000.00 rather than \$24,000.00 in a wire transfer, causing her to overdraft. She stated a letter from the bank apologizing for their error had

been submitted to the City at the time. The Mayor Pro-Tem called for the question.

Commissioner Pena, seconded by Mayor Pro-Tem Noriega, amended the motion to award American Financial Bureau as the best qualified, most advantageous respondent to the Request For Qualifications for Fines and Fees Collection Services of delinquent municipal accounts, authorized a budget amendment as appropriate, and authorized the Mayor to execute any related documents. The motion carried with Commissioners Tafolla, Fox and Rivera opposed (4-3); Mayor Suarez was present and voting.

- K. Discussion and consideration to appoint a Municipal Court Judge and Associate Judge and authorize the Mayor to execute any related documents. Possible action. (Requested by Mayor Pro-Tem and Mayor; staffed by Municipal Court.)

Commissioner Kerr, seconded by Commissioner Fox, moved to reappoint Carlos Garza as Municipal Court Judge.

In response to Mayor Pro-Tem Noriega, the City Attorney stated the motion could be amended. Mayor Pro-Tem Noriega, seconded by Mayor Suarez, amended the motion to appoint Miguel D. Wise as Municipal Court Judge and Samuel Sanchez as Associate Judge. The motion failed when Commissioner Rivera rescinded his vote (3-3); Mayor Suarez was present and voting.

The original motion carried with Mayor Pro-Tem Noriega opposed (6-1); Mayor Suarez was present and voting.

In response to the Mayor Pro-Tem, the City Attorney stated the Commission could go out for Request for Qualifications on the associate position.

Mayor Pro-Tem Noriega, seconded by Commissioner Kerr, moved to appoint Samuel Sanchez as temporary Municipal Court Associate Judge until the Request for Qualifications is awarded. The motion carried with Commissioner Tafolla opposed (6-1); Mayor Suarez was present and voting.

- L. Discussion and consideration to authorize the Texas Army National Guard to use the Mid Valley Airport facilities as well the Second floor of the Public Facilities building for billeting during Annual Training April 10 - April 25, 2015 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Airport.) Attachment.

Commissioner Kerr, seconded by Commissioner Tafolla, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

Commissioner Rivera left the dais.

- M. Discussion and consideration to authorize the purchase of various remodeling material for Harlon Block Park, Pablo G. Pena Park, Gibson Park, and Isaac Rodriguez Park from Home Depot and the use of Home Depot gift cards to purchase the supplies needed in an amount not to exceed \$20,000.00, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Parks and Recreation.) Attachment.

Mr. David Arce explained Home Depot staff will volunteer; Mayor Pro-Tem requested the installation of LED lights.

Commissioner Tafolla, seconded by Commissioner Pena, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

- N. Discussion and consideration to authorize the participation with Valley Proud Environmental Council (VPEC) in promoting the Keep Texas Beautiful and Keep America Beautiful annual Great American Clean Up through the All Valley Trash Bash Saturday, April 11, 2015 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Utilities.) Attachment.

Commissioner Rivera returned to the dais.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

- O. Discussion and consideration to approve the Waterline Access Agreement with North Alamo Water Supply Company and Adobe Unlimited LLC for Midway Court Phase 3 subdivision, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Utilities.) Attachment.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

- P. Discussion and consideration to award the best qualified, most advantageous bidder for hydroseeding at the Water Treatment Plant, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Utilities.) Attachment.

In response to Commissioner Tafolla, Mr. David Salinas clarified this item has been budgeted.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and

voting.

- Q. Discussion and consideration to extend the term(s) of the General/Professional Liability – EMS policy and authorize the Mayor to execute any related documents. Possible action. (Staffed by Human Resources.) Attachment.

Commissioner Fox, seconded by Commissioner Tafolla, moved to discuss the item.

Ms. Veronica Ramirez explained that though this is insured by TML by the general liability policy, the contract with the Fire District requires a stand-alone policy. In response to the Mayor Pro-Tem, Ms. Ramirez reported the cost of this stand-alone policy is \$45,541.00. Mr. Montalvo indicated the City has had this policy ten years; Interim Fire Chief Sanchez reported the contract with the Fire District is through September 30, 2015. The City Manager recommended extending the General/Professional Liability – EMS policy with Montalvo Insurance at a cost of \$45,541.00 and authorize the City Attorney to send a letter to the Fire District that the City will no longer provide service upon completion of the current contract unless the District reimburses the cost of the policy.

Commissioner Fox, seconded by Mayor Pro-Tem Noriega, moved to amend the original motion to reflect the recommendation of the Interim City Manager. The motion carried unanimously; Mayor Suarez was present and voting.

- R. Discussion and consideration to waive the criteria requirements specified in Ordinance 2011-16, codified as Article VIII §82.201-204, and to approve Resolution 2015-19 amending the name of Pablo G. Pena City Park as Mayor Pablo G. Pena City Park, and authorize the Mayor to execute any related documents. Possible action. (A three-fourths vote is required to waive the criteria; Requested by the Mayor and Mayor Pro-Tem.) Attachment.

In response to Commissioner Kerr, the City Secretary clarified the agenda as posted allows the Commission to waive the criteria requirements in order to name any facility for a living person.

Commissioner Tafolla, seconded by Commissioner Fox, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

- S. Discussion and consideration to approve Resolution 2015-20 appointing one member and one alternate to the Hidalgo County Urban County Advisory Council and authorize the Mayor to execute any related documents including the proxy form. Possible action. (Requested by the Mayor.) Attachment to be provided at the meeting.

Commissioner Pena, seconded by Commissioner Rivera, moved to approve Resolution 2015-20 appointing Mayor David Suarez as the member and Mayor Pro-

Tem Noriega as the alternate member to the Hidalgo County Urban County Advisory Council and authorize the Mayor to execute any related documents including the proxy form. The motion carried unanimously; Mayor Suarez was present and voting.

VII. EXECUTIVE SESSION

At 8:08 p.m., the Mayor announced the regular meeting to convene in Executive Session. At 9:53 p.m., the Mayor announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

VIII. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

- A. Personnel - Discussion with the Interim City Manager regarding the Police Chief and Fire Chief applicants as authorized by §551.074 of the Texas Government Code.

There was no action on this item.

- B. Personnel - Discussion regarding the goals, objectives, and evaluation of the Interim City Manager for the City of Weslaco as authorized by §551.074 of the Texas Government Code.

There was no action on this item.

- C. Personnel - Discussion with the Interim City Manager regarding the separation of former City Manager Leonardo Olivares as authorized by §551.074 of the Texas Government Code.

Commissioner Tafolla, seconded by Commissioner Kerr, moved to authorize the City Attorney to proceed as directed in Executive Session regarding the separation of former City Manager Leonardo Olivares. The motion carried unanimously; Mayor Suarez was present and voting.

- D. Pending Litigation – Discussion with the City Attorney regarding Cause No. LC14-074JM *City of Weslaco and Chachalaca Aero, LLC v. John Pate* in Hidalgo County, Texas as authorized by §551.071 of The Texas Government Code. (Requested by Commissioners Kerr and Pena.)

Commissioner Pena, seconded by Commissioner Kerr, moved to authorize the City Attorney to proceed as directed in Executive Session Attorney regarding Cause No. LC14-074JM *City of Weslaco and Chachalaca Aero, LLC v. John Pate*. The motion carried unanimously; Mayor Suarez was present and voting.

- E. Pending Litigation – Discussion with the City Attorney regarding Cause No. CL-2165-E *L&G Concrete Construction, Inc., Plaintiffs v. RCD Infrastructure, LLC, Enriquez Enterprises, Inc., and City of Weslaco, Defendants* in Hidalgo County, Texas as authorized by §551.071 of The Texas Government Code. (Requested by the

Mayor.)

Mayor Pro-Tem Noriega, seconded by Commissioner Pena, moved to authorize the settlement payment in the amount of \$10,000.00 and authorized the Mayor to execute any related documents regarding Cause No. CL-2165-E *L&G Concrete Construction, Inc., Plaintiffs v. RCD Infrastructure, LLC, Enriquez Enterprises, Inc., and City of Weslaco, Defendants*. The motion carried unanimously; Mayor Suarez was present and voting.

- F. Pending Litigation - Discussion with City Attorney and Special Counsel regarding Cause No. C-081-13 B *Weslaco Health Facilities Development Corporation v. Knapp Medical Center, et.al.* as authorized by §571.074 of the Government Code.

Commissioner Kerr noted his Conflicts Disclosure Statement filed prior to the meeting; additionally, he was not present in Executive Session during discussion of this item and abstains from any discussion or vote.

The Mayor Pro-Tem reported independent bond counsel opined the City has no liability for bonds issued through the Health Facilities Development Corporation for Knapp Medical Center. The Mayor stated the litigation has placed a strain on the whole community and the cost of legal fees is straining the budget.

The City Attorney cautioned that the settlement offer will be withdrawn tonight; additionally, the Health Facilities Development Corporation may dismiss the lawsuit as co-plaintiff, then the City may not pay the legal fees. Commissioner Fox stated his concern is holding Knapp to its non-profit status in service to the public. Commissioner Tafolla lamented that special counsel is not present. The Interim City Manager recommended settlement. The Mayor suspended the meeting five minutes, 10:20-10:25 p.m., so that Information Technology may replenish the videotape for recording the meeting.

Mayor Pro-Tem Noriega, seconded by Commissioner Pena, moved to accept the settlement offer from Knapp Medical Center to settle all claims and release the deed restrictions for \$575,000.00. The motion failed with Commissioners Tafolla, Fox and Rivera opposed and Commissioner Kerr abstained (3-3); Mayor Suarez was present and voting.

IX. ADJOURNMENT

With no other business before the Commission, at 10:31 p.m. Commissioner Tafolla, seconded by Commissioner Rivera, moved to adjourn the February 17, 2015 regular meeting. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

ATTEST:

MAYOR, David Suarez

CITY SECRETARY, Elizabeth Walker

MAYOR PRO-TEM, Olga Noriega

COMMISSIONER, David R. Fox

COMMISSIONER, Greg Kerr

COMMISSIONER, Gerardo “Jerry” Tafolla

COMMISSIONER, Lupe Rivera

COMMISSIONER, Fidel L. Pena, III